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NEWS & VIEWS

Role Reversals

Syndicated columnist Mary McGrory, who's provided so much Watergate enlightenment, points up how many of our neat good-guys, bad-guys preconceptions have been kicked into a cocked hat by recent events. Examples:

— Senator Sam Ervin, new good guy. He "voted against every civil rights bill that ever came before Congress."

— Archibald Cox, old good guy. He has "come out four-square for secrecy . . . [and] been hounding Ervin to shut down the hearings."

— Judge Sirica, new good guy. He's "a right-wing Republican . . . known disdainfully as 'Maximum John' in Georgetown."

— J. Edgar Hoover, old *super*bad guy. "Now suddenly it seems that J. Edgar stood between us and the Gestapo."

— Richard Helms, old good guy. We now discover he was "most cooperative and helpful" in furthering Nixon's plot to set up a secret-police operation, which would have included burglary, illegal eavesdropping, etc.

— Senator Howard Baker, new good guy. "Until recently [people] put him down as a hopeless conservative."

— James McCord, old bad guy. Liberals hear themselves extolling his "honesty."

— Hugh Sloan, old bad guy. Liberals now hail his "courage."

Mary McGrory then poses the ultimate dilemma: what if John Mitchell, bad guy in spades, "decides not to take a dive for his leader"? Does he then become liberal hero? . . . As they say at Shea, there's no telling the players without a scorecard.

Ethics & Illegalities

Jeb Magruder's sophistic invocation of William Sloane Coffin and the antiwar activists as excuse for his own illegalities brought a stern lecture from the *New York Times* and editorial distinctions worthy of a Jesuit ethics class. Said the *Times*:

" . . . [T]hose who openly and peacefully violate the law in obedience to their conscience do so because they believe their moral witness will help society to change an unjust law or an unjust policy. Such protestors emulating Gandhi, Thoreau, Martin Luther King and other apostles of civil disobedience are prepared to go to jail for violating the law, even though they think the law is unjust. . . .

"Civil disobedience casts up some difficult moral and legal questions, but it affords no pretext or justification for government officials and politicians in the governing party to violate the law in secrecy and then cover their misdeeds with perjury."

Coffin, Magruder's ethics teacher at Williams, added his bit two days later on the *Times*' Op-Ed page:

"I was shocked to hear Jeb lump all lawbreakers together. He should have known—and the Senators pressing him should have reminded a listening nation—that Martin Luther King and many in the antiwar movement were protesting what they considered to be illegal laws whose constitutionality could be tested only by a refusal to obey them. There is an enormous difference between trying to keep the nation under the law and trying to keep it under Nixon, between being a loyal servant of the Constitution and being a loyal servant only of the man who hires you.

"If there are differences in ends so there are differences in means. Whatever Dr. King and Dr. Spock did they did openly. All America could see and judge. Jeb operated behind closed doors. Most of the people in the civil rights and antiwar movements were careful not to infringe on the civil liberties of other citizens. Jeb and his friends deliberately violated these liberties. When the Supreme Court declared against him, Dr. King went from Georgia to Alabama to take his punishment. The draft resisters who went to jail accepted theirs. But Jeb's crowd, far from accepting punishment, tried only to conceal their crimes. Dr. King and those who followed him disobeyed the law to protect it. It is a sad and savage irony if Government officials learn from the practitioners of civil disobedience that law is made to be circumvented."

Seminary Statistics

Many dioceses this spring are celebrating their largest ordination classes in years, but the long-range outlook is still not good for vocations.

According to a recent bulletin of the Center for Applied Research in the Apostolate (CARA), seminaries continue to close and seminarians continue to decline.

The number of high-school-level seminaries is down in the last five years from 138 to 80, according to the bulletin, and the number of students from 14,845 to 7,570.

In the same five years, the number of seminary theologates has decreased from 73 to 54, and the number of students from 6,618 to 5,063.

The CARA study said that planning and strenuous effort will be needed if the seminaries are to meet the challenges confronting them.

It reported that one administrator, asked if his seminary had a five-year development plan, replied: "A five-year plan! I don't even know whether we will be open five years from now."

MAY I RECOMMEND THE SODIUM PROPORTIANATE, THE PROPYLENE GLYCOL MONOSTEARATE, WITH A NICE MONOGLYCERIDE - 1944...
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Odds and Ends

— Comments *New York Post* sports columnist Larry Merchant, only half facetiously: "The most damaging indictment yet" against Nixon is David Eisenhower's decision "to become a sportswriter rather than a politician."

— Bad luck, if you're a New Yorker and wanted an honorary Ph.D. degree from Colorado State Christian College (*Commonweal*, 3/30/73.) A New York Supreme Court justice has issued an injunction halting sale of the degrees in the state. According to the American Council on Education, New York is the only state to initiate court action against the institution.

— Just published: *Right from the Start*, a chronicle of the McGovern campaign by McGovern campaign director Gary Warren Hart. The book's a disaster, though a revealing one if you're wondering why the McGovern campaign didn't make capital on Watergate. It's import was lost, obviously. How else explain Hart's entry for June 17, 1972? The Watergate break-in is polished off in a single paragraph of 61 words. There's some Watergate insert material later on, but still Watergate rates no entry in the Index. The book carries a Quadrangle/New York Times imprint. . . . Well, we all miss one once in a while.

JOHN DEEDY

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CORRESPONDENCE

ROTC Electives

Washington, D.C.

To the Editors: John Deedy commented in the May 11 issue [News and Views] that "The Engineering School at Catholic University has accepted the ROTC as a course in humanities." I wish to allay this misconception for Mr. Deedy and the readers of *Commonweal.*

There is no specific course requirement in the humanities for engineering students. Rather, students are required to choose a minimum of nine courses (including a minimum of three in the Department of Religion and Religious Education) from University courses outside of the areas of physical and life sciences, mathematics and engineering. The choice of courses is left to the student who must consult with and obtain approval of his faculty adviser. With the exception of occasional election of courses in accounting and speech these nine courses have been chosen from the social sciences and the humanities. Indeed, we are proud that students and advisers, without the necessity of rigorous distribution requirements, have invariably opted for a truly liberal education outside of their professional studies. The faculty recently voted to allow students in engineering who complete the ROTC program to substitute one course in ROTC for one of the aforementioned nine courses (excluding courses in religion). This is certainly no acceptance of ROTC as a course in the humanities.

(Continued on page 391)

Summer Schedule

In keeping with the usual practice, *Commonweal* is again appearing on alternate weeks during the summer months. Forthcoming issues will be dated July 27, August 10, August 24, September 7 and September 21. From then on we will resume our normal weekly schedule.

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THE SCHOOL DECISIONS

After the recent Supreme Court decisions which struck down various stratagems for aiding church-related schools, Rabbi Bernard Goldenberg of the National Society for Hebrew Day Schools expressed a certain amount of optimism that eventually a formula for such aid could be found. "We are confident," he said, "that the inventive genius of the American democracy will ultimately find proper Constitutional means for the children of the poor and the middle class to have the same options and choices that are open to the children of the rich." For his statement of the educational ideal it is hard to quarrel with Rabbi Goldenberg. Catholic leaders in this country have long argued that failure to make practical provision for religious education in fact interfered with the freedom of religious exercise guaranteed by the First Amendment; these latest in a series of negative court decisions show that the point has not seemed persuasive to our fellow-Americans, or at least those on the courts. Catholics (and many others) have never found this fact easy to understand. To them it has always seemed highly ironic that in this of all nations we have never satisfactorily solved the problem of providing religious education. And for those who claim that they have indeed solved the problem themselves, widespread indifference, shrinking congregations and empty pews give the lie to the claim. Yet if in one sense we share Rabbi Goldenberg's reasoning, it is hard for us to share his optimism. Perhaps some Constitutional genius will come up with a new way out, but at this point it is hard to imagine what new legal avenues remain to be explored. Church-related schools will not be wiped off the map overnight, but there is no doubt that their numbers will decline and that they will serve an ever-shrinking clientele. That being so, then, it is essential that American religious leaders face the new situation squarely. There is no point in dreaming any longer about a federal or state *deus ex machina* who will bail out the parochial school system. The sooner this fact is clear, the better, for it is our opinion that in many, perhaps most, parts of this country alternative methods of religious education are in sorry disarray. If Catholics have for all practical purposes reached the end of the road where parochial schools are concerned, and if shared time and after-hours religious education are all that are now open to us for the future, we must

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turn our best energies to these efforts. The parochial school system was built under adverse conditions, by people far less affluent than we. In that process, tremendous amounts of energy, imagination and dedication were expended. Now it is imperative that similar energy, imagination and dedication go into the creation of truly effective alternative methods of religious education. Failing this, the consequence is clear: religious illiteracy which we and the nation can ill afford.

'Fire the Fathers, Hire the Sons'

The Orwellian nature of wages and anti-inflation guidelines as the sagging Nixon economy—with its Phase 4 band-aids—struggles through the summer of '73 was illustrated recently in House and Senate debate on the Fair Labor Standards Act amendments in this session of Congress.

Corporate profits are up and banks and financial houses report profits to the extent that the underground and radical press headline writers were having an orgy even before Watergate. Coupled with soaring food costs and the difficulty which minimum-income people are experiencing daily to meet survival levels, detached observers from a long-overdue Skylab might expect that government would react to the spiral of profits and living costs by establishing a higher minimum wage for more of the workers in that society.

Not so. Rep. Joe D. Waggonner, a Louisiana Democrat, saw no reason to show Congressional haste in raising the present minimum wage of $1.60 an hour to a $2 or $2.20 floor which some of his wild-eyed liberal colleagues on the House Labor Committee had prevailed for last month. The House action will raise the minimum in a series of steps, and would extend coverage to more than five million additional workers—mostly domestic maids and employees of local, state and federal government.

Any member of the June graduating class—however inadequate his other academic preparation might be—can calculate the new minimum into the brave new world of affluence and technology and come up with an annual gross earnings of $4,576—before taxes. Then he might ponder the interview which Henry Ford II, chairman of the board of the Ford Motor Company gave on "Meet the Press" recently. Mr. Ford, according to his company's own figures, received a total of $874,567 in salary and bonuses in 1972. That works out to something like the annual gross of the new minimum wage floor for an hour an a half of his time in the Dearborn executive offices.

A questioner asked Mr. Ford how he justified this—as a 27-percent increase over the previous year—in terms of the Nixon Administration's anti-inflation guidelines "and your concern about inflation?" To which the chairman responded that indeed his company's supplemental compensation plan was within the Price Commission and Cost of Living Council's guidelines, adding that his "personal remuneration" is decided by a compensation committee made up of outside directors.

All of this is, of course, just a continuation of the hand-wringing of a legion of political and social scientists who have lamented the strange contradictions of top-heavy corporate profits and salaries while an increasingly large mass of "working poor" are asked to sustain the burdens of increased living costs. Yet others who are just as sincere as those advocating increased minimum wage floors for all in the workforce have raised serious questions about the possibilities of removing too many workers of minimum skills from the employment picture completely.

In a computer society which is eliminating graduate engineers and astrophysicists, what, they ask, is to become of the remaining elevator-operators, clerks and assembly-line workers displaced by the machines? The ravages of technological change have created many real —and some psychological—fears. For one, it has tended to create a huge labor pool characterized by low wages, and populating this group has been the inevitable syndrome of young, largely black and poorly educated.

The bill which passed the House on June 6 did not include a provision advocated by the Administration, a so-called "youth differential" which would have retained a $1.60 minimum floor for teenage workers based on the proposition that it is needed to encourage employers to hire young people and thus cut high unemployment among this group. Democratic opponents and labor eliminated it in the final version, arguing that it placed government itself in the unenviable position of providing a source of cheap labor to industry and business.

George Meany came to the Senate Labor and Public Welfare subcommittee hearing after the House had passed the expanded coverage and $2.20 increase, and ridiculed the Administration's plans to exempt the youth pool from coverage. "It is like firing fathers to hire the sons," said the crusty AFL-CIO chief, who earlier had turned on a onetime protégé from the New York building trades, Secretary of Labor Peter J. Brennan, on the same minimum wage and youth exemption issues.

The Nixon appointee was considered a bone thrown to the house of labor when the second Nixon Administration began, but Brennan has subsequently turned out to be little more than an embarrassment to unions who are seeking federal action in job opportunities, occcupational health and safety law enforcement, pension-protection legislation and other issues. Brennan, who has so far demanded that every office in the Department

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of Labor have a portrait of Nixon and an American flag, has otherwise distinguished himself largely by the pearl-handled revolver which he carries.

Brennan earned Meany's wrath when he made a personal declaration of opposition to the sub-minimum wage for youth at his Senate confirmation hearings earlier in the year and then announced his official support of it as a member of the Nixon "team." The switch amounted to Brennan's "abandoning trade union principles" and left him "aghast," Meany told both union audiences and the press. Team player Brennan was still calling for the differential before the Senate subcommittee in June, however, and projected the Nixon opposition to coverage of household domestics and local, state and federal government workers.

The AFL-CIO testimony against the subminimum wage provides currency in showing that more than four times the number of persons between 20 and 24 years of age are seeking full-time work, as against those in the 16 and 17-year-old age group. Minimum wage increases, contrary to the lobbying of the Chamber of Commerce, have not caused unemployment. Employment has gone up, in fact, every time the minimum wage has been increased.

These dry statistics which emerged as testimony before the House and Senate committees are only surface evidence of the depth of misery and struggle in the low-wage pools which provide the service industries for our large cities. *To wit*:

"A higher percentage of non-white workers are not covered by minimum wage protections than white workers. The most poorly protected group are non-white females—only 44 percent are covered. Extension of minimum wage coverage to domestics, as provided in the Dent (John Dent, Pennsylvania Democrat) bill, would dramatically increase the number of non-white females covered by the minimum wage."

Translate this into everyday realities in the workplace in situations which many Americans encounter daily: the black waitress who takes your coffee order at the subway chain, the kid packaging your hamburger at McDonald's at noon, the clerk in the neighborhood food chain that is open 16 hours. They are the concern not only of the testimony before Congressional commitees, but of the "youth differential" advocates among White House advisors. And the ear they are turned toward has traditionally been not only the Chamber, but the Cotton Council of America, the American Sugar Cane League and the mammoth carry-out restaurants and food chains—the plastic empires such as McDonald's, Toddle House, Winky's, Seven-Eleven and you-name-it. They too have an interest in seeing that government "encourage employers to hire young people."

RUSSELL W. GIBBONS

(Russell W. Gibbons is a long-time contributor on labor affairs.)

NAL: The Core Gets Harder

Half way through his two-year term as president of the National Association of the Laity, Jack Yorke, an engineer from Detroit, told the annual convention a year ago that NAL was down to "a hard core" which would do a lot of work, having shaken off many people flushed with enthusiasm by a Vatican Council II and expecting very quick church reform. That, he said, helped to explain the drop in attendance to 175 from the 500 at New York a year earlier.

The core has grown harder. Only 100 showed up at Haverford College, Pa., for the seventh annual convention, June 22-24. That included some 20 people who came to push a specific interest of their own rather than proclaim solidarity with NAL as an organization—women's rights, non-violence, experimental ministries, farm workers, gay liberation.

The constituencies the delegates represented have similarly shrunk. Jack Yorke reported 29 affiliates on the books, "of which 20 are active," with a membership of 4,000. Some years ago, it was "about 12,000," a figure now thought to have been inflated. Even the new one represents groups in a variety of real relationships with NAL and with a variety of levels of member participation and activity. The biggest group at the convention came from New Jersey headed by Reinhold Kissner. Other group spokesmen were Paul Riley, Washington, D.C.; John Murdoch, Pittsburgh; Joe Waugh, Chicago; Bill Nerin, Oklahoma City; Dan Dick, Worcester, Mass.; Gordon Leopold, Detroit; Stan Merriman, Houston, and Jim Albertini, Honolulu. New York and Philadelphia, neither with a NAL chapter, were well represented.

Several speakers described NAL members as radical and left wing Catholics, a description nobody challenged. Apart from the special-interest people mentioned above, most of whom were identifiably counter-culture in dress and life style, the sociological profile seemed middle-class and middle-of-the-road. Many were young couples who 15 years earlier would have been at a Christian Family Life convention, their objective a more meaningful way to live their Christian lives than that offered by bureaucratic, stagnant and self-centered parishes. Their scrubbed and spontaneous infants and young children suggested well-adjusted and basically content parents.

A measure of the alienation of these middle-of-the-roaders from the church institutions was given by an exchange with Bishop Carroll T. Dozier of Memphis, Tenn., who attended the opening session as an observer and was drawn into a wide-ranging dialogue toward the close of the evening. Everyone was obviously delighted that a bishop was sufficiently interested to stop by. And this

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particular bishop was doubly welcome as one of four singled out for favorable citation by this year's convention: for two pastorals, one on the theme of choosing life, the other on racism, and for his action in joining the Catholic Peace Fellowship, the second U.S. bishop to do so. The others cited were Bishop Sidney Metzger, of El Paso, Texas, for his support of the striking Farah employees; Bishop Thomas Gumbleton, of Detroit (the first episcopal Catholic Peace Fellowship member, already cited last year), for continued outspoken criticism of U.S. actions in Southeast Asia, especially his on-the-spot report of treatment of political prisoners in South Vietnam; and Bishop Joseph Durick, of Nashville, Tenn., for a pastoral on reform of penal institutions and criminal procedures.

Bishop Dozier was well received when he touched on such generalities as Watergate "as a sign of the interior collapse of the moral fiber of the United States." But the communications gap became a chasm when members protested a lack of the leadership they want from priests and bishops. There is leadership but no following, he insisted. He described Pope Paul's encyclical on the development of peoples *(Populorum Progressio)* as one of the greatest acts of leadership of all time, said *Humanae Vitae* would be remembered for its stress on life a century hence, and praised the action program presented in the recent Vatican pastoral instruction to bishops. He pointed in particular to its call to bishops to focus their teaching on "the value of the human person, his liberty and his life, the value of the family, its stability and its unity, and the extremely serious problem of the concentration of wealth, peace and war, and the peaceful coexistence of all peoples."

What response does the Pope get, the bishop asked. "You badger and badger and badger and do not support." Triumphalistic verbiage, he was told, a typical effort by the church institution to take the credit for having initiated movements for human liberation which it had tried vainly to hold back for a century and was now forced belatedly to join. So heated did the exchange become that John Murdoch felt compelled to intervene to remind the protesters that they were talking to their friend and well-wisher, not to a typical unenlightened bishop.

Most of the proceedings were conducted in a lower key, in tune with the elegant country-squire atmosphere of Haverford College. The only subsequent jarring note came with the election of a new president, a clash provoked perhaps in part by personalities but also by a major difference about the purpose and direction of NAL. Even the abortion issue, hotly controverted recently by NAL members in the press, created no problem. A resolution recognizing the plurality of positions within NAL was passed unanimously. It affirmed "the sanctity of life in all stages of biological development," as well as "the rights of individuals to hold opposing views" on the substantive question of abortion being in all circumstances immoral.

John Murdoch's presidential platform followed a presentation made earlier by Eugene Bianchi. It would downgrade NAL's programs seeking the reform of church structures and concentrate on creation of communities with new Christian life styles, not rejecting but largely ignoring the official structures. They would be essentially prophetic groups, not concerned with building up countervailing power but rather hopeful that the radiation of their example would cause existing structures to decay, leading to a church formed after their model.

Joseph Skehan, Murdoch's opponent and winner of the contest by a three-to-two majority, wanted to continue along existing lines, acting as a pressure group to bring into existence what outgoing president Yorke called "a truly renewed and reformed church," within "an atmosphere of freedom and responsibility for all." Although last year's closing of a national office with a full-time director and organizer for lack of funds will slow the rhythm of action, the convention gave a vote of confidence to Joe Skehan's ability to maintain a meaningful level of impact in areas in which NAL believes it has already helped to bring about significant change.

What these desirable directions are was reviewed by Yorke in his account of his stewardship. Three-quarters of U.S. dioceses now make some financial report or have promised to do so, and the extent of disclosure is growing. Dioceses are closing schools, because parents are seeking "the best alternative" for their children and people-pressure is forcing a reallocation of educational funds to give equality to all children and due concern for needs of adults. Priests and nuns are in large numbers rejecting the constraints of a rigid ministry and non-voluntary celibacy, and "the institution will adjust of itself" when enough do so. Three out of four "committed" Catholic wives in the child-bearing age group regularly practice some kind of contraception, a committed Catholic being one "who receives communion at least once a month." With confessions reported 40 to 80 percent off, the church is introducing a communal penitential service to replace a practice people no longer judge meaningful. "Fairly regular" church-going on Sunday is replacing the concept of compulsory attendance.

Most of the delegates seemed to be aware of a growing resistance on the part of the institution to these changes. There is little sign of the "liberal bloc of bishops with a significant foothold within the U.S. hierarchy," foreseen last year as less than 12 months away. Some are tired of the struggle and willing to retire into the Bianchi-Murdoch Shangri-la. But it was this observer's conclusion that there remains a hard core which will insure NAL's continued presence and impact on the national scene.

GARY MACEOIN

(Gary MacEoin is chairman of NAL's World Concerns committee.)

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WATERGATE OPTIONS

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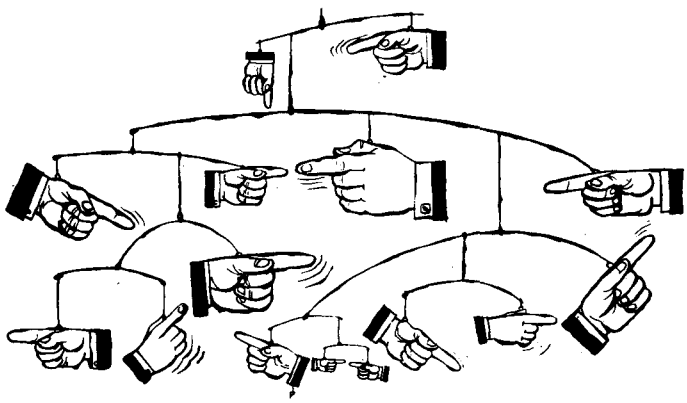

Dealing with the massive corruption of the political process

As the evidence of the Nixon Administration's unprecedented, wholesale assault on the United States Constitution continues to develop apace, an increasingly relevant and inevitable question arises: What are the permissible Constitutional responses to such an attempt to undermine the very foundations of Republican government? Impeachment, resignation and removal (including Clark Clifford's ingenious proposal that Spiro Agnew resign, that Nixon then appoint a replacement from a list of three names submitted by Congress, and that, in turn, the President resign to permit a government of "national unity" under the new Vice President) are, in essence, political (and, given Nixon's psyche, personal) impossibilities. The American people may well be inclined (according to a recent poll) to favor impeachment or resignation if the President was involved in either the planning or the cover-up of Watergate, but their Congressional representatives (at least for the moment) clearly are not—perhaps because of the immense time that must necessarily be devoted to both impeachment and trial; it is also safe to assume that Richard Nixon will battle mightily to preserve his already shredded Presidency. If those Constitutional responses are inadequate, are there others?

Although the complexities of what is popularly called Watergate will eventually only be unraveled by a computer (or a bank of them), enough is already known to suggest that the American people need not sit by in frustration until the whole story is revealed. For one thing, that particular tale may never be uncovered in credible form, for the major figures concerned have contradicted each other and themselves with a vigor that may well defy criminal prosecution or even meaningful Ervin Committee findings. What has been established beyond doubt, however, is the fact that the Presidential election of 1972 was so permeated with fraud on a national level that its validity must be seriously questioned. We also know of the likelihood (though not the incontrovertible fact) that the President had knowledge of both the fraud and of criminal acts relating to such fraud (as well as other misconduct). The critical questions then become—who has the power and authority to question the validity of the election, what are the forums for such queries, and may the President be compelled to appear in such forums? The last question—the amenability of the President to legal process—is the subject of much recondite speculation (much of it being negative), while the other two questions have not been publicly discussed, although two lawsuits have been filed seeking to void the election.

Many of the "fraudulent" acts contributing to the victory of the Republican candidate for President have already surfaced: the phony "Canucks" letter which led to the destruction of Edmund Muskie's campaign during the New Hampshire primary, the phony letters of support for the 1970 Cambodian incursion, the attacks upon Hubert Humphrey's and Henry Jackson's sex lives during the Florida primary (which probably were ineffectual), and the conduct of CREEP in the California Democratic primary. Doubtlessly, much more similar conduct will be documented as time goes on. It is apparent that the overriding goal of the President's campaign effort was to systematically eliminate the strongest Democratic contenders (starting with Muskie in 1971, when the process began) and to insure the nomination of George Mc-

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Govern as that party's standard-bearer. Apparently, very little of this form of fraud played a major role during the campaign itself, although continuing revelations of CREEP misconduct may soon make this statement "inoperative."

Of course, to argue that George McGovern was the product not of the desires of those millions of Democrats who actively participated in pre-convention politics (many for the first time) but of a CREEP "master plan" is to argue the politically and emotionally unpalatable. But, if the terms of the argument be shifted somewhat —to the plane of what the Democratic nomination (whoever may have achieved it) meant after all the deceit and rancor of the pre-convention period—then the deception argument may be more acceptable, as well as more accurate. The bitter and divisive tactics of CREEP not only insured George McGovern's nomination but also created an atmosphere whereby, for instance, Edward Muskie would not accept the Vice Presidency after the Eagleton affair. This and other similar incidents demonstrate that the true evil lay not in McGovern's selection, but in the sowing of confusion and disarray into the affairs of the Democratic party.

In addition to "traditional" fraud, the corruption of the political process in 1972 consisted in CREEP's unauthorized and illegal campaign-fund raising and expenditures. Violations of two federal Corrupt Practices Acts have already been documented, and more may be forthcoming. No court has ever decided that such violations *per se* (or in combination with the aforementioned fraudulent practices) are grounds for questioning the validity of an election, but, then again, Watergate and 1972 are *sui generis* in terms of American political history.

Grounds for Action

There are numerous possible grounds for contesting the election; the question is whether a viable Constitutional theory can be construed to encompass and sustain those grounds. Thus, courts are familiar with the legal concept of electoral fraud and have, without great hesitancy, required new elections when fraud *at the polls* (ballot box stuffing, intimidation of voters, etc.) has been shown. Also, elections have been overthrown where classes of voters (most notably, of course, blacks under the 15th Amendment) have been denied the franchise. In most cases, no showing that the fraud (or franchise denials) changed the results of the election is necessary; the corruption of the political process is sufficient if there is *any* likelihood that the outcome would have been changed absent the fraud; where civil rights violations are concerned, even this much is not necessary. Watergate is unique in that the process of fraud and corruption started long before the election, continued through the vital pre-election period, and irrevocably affected the fortunes of the Democratic Party. The effect of the irregularities was cumulative, and it is impossible to determine at what point in time, such effect was (or might have been) decisive.

Who would sue? Is there a personal right to vote uninfluenced by fraud? Although the issue has never arisen in the Watergate context (since the event is unique, so must any legal or political analysis of it be), there are numerous Supreme Court rulings affirming in strong and sweeping language the existence of a right to vote. The most recent one, *Powell* v *McCormack*, in 1969, approved Alexander Hamilton's statement to the New York Constitutional Convention in 1788, "[T]he true principle of a Republic is, that the people should choose those whom they please to govern them." Also, the Court quoted a British Parliament's eventual vindication of John Wilkes' right not to be excluded from that body, and its declaration that such action was "subversive of the rights of the whole body of electors of this kingdom" and "the right of the British electorate to be represented by men of their own choice."

The right is not a peripheral one, for the *Powell* decision, in restoring the Harlem representative to his seat in the House of Representatives, affirmed

> That the right of the electors to be represented by men of their own choice, was so essential for the preservation of their other rights, that it ought to be considered as one of the most sacred parts of our Constitution . . . that the [voters] . . . had an indisputable right to return whom they thought proper. . . .

The great (perhaps the Court's greatest) decision in *Reynolds* v *Sims* in 1964 (the "one man, one vote" opinion) held that "The right to vote freely for the candidate of one's choice is of the essence of a democratic society, and any restrictions on that right strike at the heart of representative government." Lest anyone conclude that only the formal right to vote was involved, it should be noted that *Reynolds* involved the *weight* of the ballot rather than the ability to cast it, and that the Court quoted approvingly from a previous comment of Justice Douglas in another case, "Free *and honest* elections are the very foundation of our Republican form of government. . . ." and "[E]very citizen has an inalienable right to full *and effective* participation in the political processes. . . ." (emphasis added).

Thus, it would appear that a viable case for invalidating the Presidential election of 1972 can be theoretically built. There is no question that a considerable number of voters were influenced to reject the Democratic candidate for President last year—especially since they were traditional Democrats who retained their loyalties in Congressional and Senatorial, as well as local, races. Indeed, the findings of political scientists about party loyalty are immeasurably relevant to document the

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extent of vote-switching in 1972, for, as one student of the subject put it,

> No element of the political lives of Americans is more impressive than their party loyalties. . . . Current measurements of particular dispositions indicate that the Republicans could expect about 46 percent if the vote of the nation expressed only its fixed party loyalties at the polls.

Thus, it would not be too bizarre, politically speaking, for a voter normally Democratic to claim that he voted for President Nixon, largely if not solely, because of the now revealed Republican "dirty tricks"—or perhaps a proper plaintiff would be a traditional voter who comprised that 45 percent who did not even go to the polls because of Democratic disarray. Both could now argue that their conduct was induced by fraud.

Corruption of the Process

Another possible challenge by a voter, whether or not he claimed personal deception, might well involve an assertion that the election should be invalidated because of the massive corruption of the political process. The "standing" of such a voter to claim a generalized harm to the polity (which is freely admitted as an intellectual proposition by most), rather than a particular harm to himself, would be analogous to the ability of a corporate shareholder to bring a "derivative" lawsuit arguing that certain conduct of the corporation's managers constituted a direct harm to the corporation itself, rather than only an indirect one to himself. The advantage of this form of suit lies in the ability of the plaintiff to include the financial defalcations, as well as the "fraud," as elements of his claim of political perversion; the difficulty is that federal courts (in distinction to state courts) rarely allow this form of ombudsman-private attorney-general suit.

It is likely that any lawsuit would be directed against the President (or Vice President who, whatever his involvement with the corruption, obtained a "free ride" from the scandal), for the technical difficulties of suing the state electors or the state officials who actually certified the credentials of the electors are insuperable. A tenable suit could be based, for instance, on the ancient Writ of *Quo Warranto* which asks "by what right do you hold this office" (a writ, incidentally often resorted to by dissident shareholders against corporate officers). The respondents named in such a action would be both the President and Vice President, and the remedy sought would be a declaration that the office is vacant. There are complex problems of whether the President could be sued—as I later suggest, the issue is not yet settled—and who would have the right (again, what lawyers call "standing") to bring the suit. That may depend upon the posture of the suit; is it based upon the private (Constitutional) right to cast a vote unhampered by fraud or a "public right" to integrity in the electoral process? Since the issues in this context are unique—although many of them, in other formats, are not—the eventual legal (and moral and political) arguments, as well as the decision itself, will doubtlessly be "classical," and the American people—and their courts—will have to await full development of such arguments before making a final judgment on the merits.

If the judiciary follows its traditional inclinations (witness the fate of suits during the Vietnam war arguing for its illegality, but then again, note that suits attacking the Cambodia bombing after the return of our prisoners of war have fared better—at least initially) and ducks the concrete issues involved in the pending (and doubtlessly forthcoming) lawsuits, are there any other remedies?

Congress declares the winner of the Presidential election in a most unusual manner, but, despite the peculiarities, it is the inherent right of any legislative body to reconsider its acts, if those acts were undertaken as the result of fraud perpetrated upon it. The election of the President becomes "official" when the tally clerks of the House and Senate total up the electoral votes cast by each state's electors (after the states have certified them and then have met), and the results are announced by the president of the Senate. Very few disputes about the credentials of electors have ever arisen (the electors in our unique Constitutional system are considered "state" rather than "federal" officials) and certainly none has occurred *after* the certification of those electors by all concerned. Congress, however, did once, in 1876, appoint a commission to study the credentials of three states' Presidential electors. The history of the decisions of that commission, while not a particularly happy one, at least presents a possible resolution of that particular dilemma. The resolution might be politically, as well as morally, palatable.

A commission of let us say fifteen eminent citizens could take testimony in the various states from those individuals who felt that their votes had been fraudulently induced. It could judge for itself whether the witnesses were representative of a class of voters, a significant class, and whether the election was so tainted with fraud and impropriety that some Congressional action should be taken. Perhaps no such action is Constitutionally possible. In 1887, a law was passed allowing the states to conclusively determine challenges; pursuant to that statute, any failure to do so required that disputed electoral votes not be counted unless a majority of both Houses of Congress agreed to count them. Perhaps recommendations about repeal of the 1887 law or adoption of new legislation could be made. In any event, as a public forum, as a body which could

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marshal the flagging energies of Congress and give voice to the people's frustrations, such a commission—even if only advisory—could be invaluable. The original Hayes-Tilden Electoral Commission was the result of what one scholar has termed "a completely extra-Constitutional compromise"; a similar one now, under the circumstances of the Watergate scandal, may well be extra-Constitutional, but this does not mean that it is "unconstitutional."

The Role of Nixon

Central to these and the other developing questions of Watergate is the role of Richard M. Nixon. Could he be called as a witness in a lawsuit such as that contemplated herein? Could he be made a defendant in such a lawsuit? Could he be questioned by a grand jury (with, of course, the right to plead any relevant Constitutional amendment, including the Fifth, in such a proceeding) about his involvement, let us say, in the Ellsberg psychiatrist's break-in affair? Could his role in that notorious plan for domestic intelligence-gathering in 1970 (the chilling text of which—including his approval—was printed in the *New York Times* on June 7, 1973) be investigated by a grand jury considering charges of conspiracy to violate the surveillance laws of the United States (after all, in 1972, the Supreme Court held that warrantless electronic surveillance of domestic radicals was unconstitutional and illegal)?

Much has recently been written about the susceptibility of a sitting President to legal processes. Most of the traditional scholarship in the field has argued, in accordance with William Howard Taft's view, that the President "could not be detained as a witness in a case, because it would interfere with his public duties," and the whole question has been derided as an example of Constitutional illusion. What, for instance, would happen if a President *refused* to honor a grand jury subpoena or service of process in a civil lawsuit? Could he be cited for contempt (if a witness) or lose the suit by default (if a defendant)?

The argument must be broken down into two parts, the Constitutional and the practical. Two specific instances in our history are usually cited to support the claim of Constitutional invulnerability for the President; they do not quite add up to such a sweeping conclusion. In June of 1807, Aaron Burr, in defending himself against a charge of treason, sought to subpoena Thomas Jefferson, then President, and John Marshall, sitting as trial judge, issued the command. Jefferson defied it, and Marshall did not press the matter to the point of either a contempt citation or a bodily attachment (meaning literally what it says). In 1867, the United States Supreme Court refused to permit the filing of a complaint against the President of the United States (by the State of Mississippi) seeking to enjoin him from enforcing certain reconstruction laws on the ground that they were unconstitutional. Since then, no President has been sued in his own name for acts done in his official capacity.

During the four-day argument over the right to subpoena the President in the Burr case, the government conceded that

> Elevated as our illustrious President is, yet our principles are, that when life is in jeopardy, he may be summoned like any other individual, where he is able to disclose important facts, and when the national interests will admit of his attendance. . . . We admit that a subpoena may issue against him as well as against any other man. . . .

The only issue was the propriety of requiring the President to answer a subpoena *duces tecum* (to produce documents), and the wrangle clearly involved an early historical version of "executive privilege" in respect to communications to the White House. Marshall's opinion cleverly seized upon the government's concession—"[T]he attorney for the United States avowed his opinion, that a general subpoena might issue to the President; but not a subpoena *duces tecum*"—and extended it to include all subpoenas; he noted that Jefferson could always contest the scope of the subpoena but that "The propriety of introducing any paper into a case, as testimony, must depend on the character of the paper, not on the character or the person who holds it."

Before dismissing the Burr affair as a victory for Presidential prerogative, we should note that, despite the protests, Jefferson did turn over the requested documents, that they were of no use to Burr anyway (which everyone knew), and that the delicate legal minuet involved not the highest considerations of state but of bitter partisan politics between two noted enemies, the President and the Chief Justice. Of course, much valuable Constitutional law has been made in just such a context, and the heated political battles of one historical moment have a way of becoming the hallowed Constitutional principles of another, after the passions have faded. While it may be true that Jefferson's apparent concession to the jurisdiction of a general subpoena (contradicted by his correspondence on the subject) may have been purely pragmatic and that Marshall's concession that the President might not have to appear "because his duties as chief magistrate, demand his whole time for national objects" may have been his escape hatch in the event of Jefferson's refusal, the principles underlying the debate may be quite relevant today.

The historical setting of *Mississippi* v *Johnson*, the disinclination of a weakened Supreme Court to take on a popular Congress during turbulent political times, is also relevant to an understanding of the claim of Presidential immunity. Indeed, the case is irrelevant to Water-

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gate for the simple reason that the government argued therein that "It is manifest here that the case made against Andrew Johnson is not made against him as an individual, as a natural person, for any acts he intends to do as Andrew Johnson the man. . . ." The decision was expressly confined to the issue whether the President can "be restrained by injunction from carrying into effect an act of Congress alleged to be unconstitutional" and it refused to express an opinion on whether the President "may be held amenable, in any case, otherwise than by impeachment for crime."

The most startling implied affirmation of the right to compel the President's appearance occurred last year in the "Caldwell case" (technically known as *Branzburg* v *Hayes*) where the Supreme Court, while denying the existence of a First Amendment immunity for reporters attempting to cover up their sources, said

> Citizens generally are not constitutionally immune from grand jury subpoenas. . . . The long standing principle that 'the public . . . has a right to every man's evidence' . . . is particularly applicable to grand jury proceedings.

In an intriguing footnote (which some members of the Burger majority may now regret), the opinion referred to both Jeremy Bentham's old adage that even "the highest persons" must give evidence in a minor dispute which they had witnessed and to Marshall's subpoena of Jefferson. Clearly, the issue is not resolved, although the scholars are right in contending that, pragmatically, no judge has ever pushed it and that no President has been sued in has own name since 1867.

As the Watergate scandal cascades into the Oval Room itself, as Richard Nixon's defenses become more strained, contradictory and pathetic, as the President retreats into a monastic silence and even refuses to hold news conferences (much less acknowledge any inclination to voluntarily submit himself to legal process), as our political times "boil over," new Constitutional questions arise almost daily. The "unthinkable" becomes the norm, as Elliott Richardson notes that evidence of Presidential involvement in Watergate is "inconclusive" and Archibald Cox announces a routine inquiry into whether a sitting, unimpeached President can be criminally charged.

Can the Constitution deal with the massive corruption of the democratic political process, either by judicial cognizance of lawsuits or by recognition of Congress' power to "investigate" (and perhaps "recall") the electoral results of 1972? Our Constitution was inadequate to deal with the overriding political and moral issue of slavery in 1860; is it, even as interpreted by a Court which has been determined for the last century to make it work in times of national crisis, impotent in the face of a unique and major moral and political scandal? If so, then Richard Nixon may well "tough it out" not only against his political adversaries but also against the best instincts of the American people and of their revered charter of government.

THE POST-CONCILIAR CHURCH: EASTERN EUROPE

CHRISTIAN COEXISTENCE

L. BRUCE van VOORST

Physicist Werner Heisenberg's indeterminacy theory postulates that one can know the position *or* the velocity of an electron, but not both, an image which comes to mind as well when surveying the diverse orbits of the Catholic Church in Eastern Europe [leaving aside East Germany, covered in "A Mixed Picture," May 26]. To begin with, even the term is misleading, for "Eastern Europe" is about as homogeneous as Manhattan Island. And the runes have traditionally been all but indecipherable; the ranks are few of those who predicted the Polish Baltic coast riots in 1970, the blighted Prague spring of 1968, East Germany's 1961 wall, etc., etc.

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A quarter-century after the Communist takeovers in Eastern Europe, and roughly a decade after both the beginning of the much-heralded Marxist-Christian dialogue and the Vatican Council II, relations between church and state are perhaps less fractious than often in the past, but more from fatigue than resignation. The Catholic Church and the states remain like the classic scorpions in the bottle, uncomfortable, but unable to alter circumstances. With some exceptions, such as the continuing critique of the liberal socialist abortion laws, the churches avoid direct political confrontation, choosing instead to concentrate on pastoral and educational responsibilities. As one Polish priest explained, "The Christian message is not dependent on ownership of the means of production."

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Where possible the churches support the governments on broad topics of international interest, for example, peace and disarmament campaigns, anti-apartheid declarations, even the somewhat more controversial Conference on European Security. In some cases the churches back the regime on political issues of common national concern. Polish Archbishop Boleslaw Kominek of Wroclaw, specifically speaking on behalf of the episcopate, in the fall of 1971 summarized the Church's task as "striving for a reform of ecclesiastical institutions which would switch the main emphasis from political and diplomatic activities, to the pastoral, the social and the eschatological."

The governments, for their part, have generally retreated from the bald, often bloody, attempts of the 1950s to simply annihilate the Church and its flock, and have switched instead to a stepped-up ideological confrontation, coupled with an administrative war of attrition, which is often nearly as effective as direct confrontation. The machinations range from restricting church services (particularly leisure-time youth programs and catechism), limiting vocations and seminaries, blocking or delaying interminably the construction of new churches (particularly in the many important new residential areas being built under the housing programs), intrusion into the Church's personnel policies, to taxes on various sorts of church property and personnel. Outside the Church the regimes support vigorous atheistic teaching campaigns in the schools and, a measure of significance, place serious impediments in the way of non-Marxists' seeking promotion at work or entrance into universities.

The Catholic in a socialist state is constantly challenged with the questions, "Where do I compromise?" "What can be rendered unto the state?" and "What must be reserved for God?" Imaginative theological reflection is frowned upon as dangerous to the unity which enables them to exist, and even young priests who are not overly satisfied, for example, with the conservative theology of a Polish Cardinal Wyszynski are reluctant to develop their thoughts publicly, because of the threat of undermining the vital unity. The Church in Eastern Europe, consequently, is not experimenting, is contributing little of theological uniqueness or ingenuity. Its task is simply to continue to exist.

What, one will ask, about the signs of post-Council rapprochement? The release of Cardinal Mindszenty in Budapest and the appointment of new bishops? The Yugoslav-Vatican reconciliation? The Vatican's reorganization of the western Polish dioceses and party chief Eduard Gierek's assurances to the Church?

All true. But in each instance closer analysis shows the two scorpions still locked in the bottle. For that matter there's a contrary listing just as impressive. Despite the Vatican agreement with the Czechoslovak government of this March permitting the appointment of four new bishops—the first since 1964—this still leaves seven of the country's religious provinces without apostolic presence and one of the bishops, Josef Vrana, was named *ad nutum sanctae sedis*, a Vatican reservation reflecting uncertainties about Vrana's earlier cooperation with the "Peace Priest" regime-backed movement. Polish militiamen regularly destroy makeshift chapels erected by restless believers tired of waiting for official action. Even in Yugoslavia there are priests under arrest as "ringleaders" of the counter-revolution.

POLAND: *A Fortress under Siege.* The principal exception to this overall judgment is Poland, which is perhaps a good place to begin, for the reasons, like everything having to do with that nation, are so special. The Poles have *always* been an exception, characterized by a profundity on belief, a depth of acceptance of the Christian message, which afforded the Polish Catholic the advantage of an almost unassailable base from which to counter pressures from the new socialist government. Prewar Poland, already 75 percent Catholic, became almost 95 percent Catholic through the combination of the extermination of the Jewish community, and the western shift of the frontiers.

The Polish Church's position was further enhanced because the Communist regime needed its support on the vital issue of reorganizing the dioceses of the Oder-Neisse territories, which were German before 1945, in effect guaranteeing Poland's new western border. In the eyes of Poland's Communist leadership, Vatican confirmation of this border was the essential complement to juridical recognition by the West Germans.

The Vatican was quite aware of the importance of this bargaining chip, and played it slowly, for the postwar history of church-state relations hardly allowed for complacency. Twice before relations had improved, only to plummet. The first church-state agreement in 1951 ended in the "non possumus" crisis of 1953, with Cardinal Wyszynski going to jail. The second began when Wladislav Gomulka came to power in 1956 and immediately appealed to Cardinal Wyszynski for church support, offering in exchange major concessions to the Church. Tragically, Gomulka later reneged on many points.

During Vatican II the situation improved briefly. But tensions again exploded in the aftermath of the Polish Bishops' letter to the German Episcopate of November, 1965, which was stimulated, or at least facilitated, by the magnanimous and imaginative "East Memorandum" two months earlier by the West German Evangelical Church, extending a generous hand of reconciliation. The 4-page Evangelical memorandum was without doubt what stimulated such a comprehensive reply from the Polish Episcopate. Although in form an invitation to attend the millennium celebrations, the letter went further, offering a broader reconciliation between the

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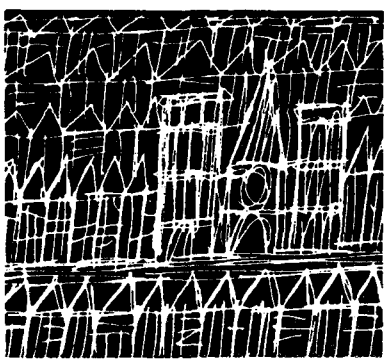
two nations. "Extending our hand to you," wrote the Polish episcopate, "granting forgiveness" for past German transgressions and "begging forgiveness" for the Polish expulsion of the German population from the Oder-Neisse territories. The language of conciliation, plus the independent move in a matter of such political sensitivity, infuriated the Polish regime. Although the letter was later to become an important document in the unfolding of Willy Brandt's *Ostpolitik*, Premier Cyrankiewicz denounced it as a "distortion of reality." The German bishops were not allowed to attend, and Pope Paul VI's request to come to Poland was rejected. Church-state relations remained frigid for the remainder of Gomulka's tenure.

The picture changed dramatically again in December, 1970, in the wake of the Baltic Coast workers' riots. Gierek, like Gomulka before him, was scarcely in office



before he appealed to Wyszynski for help. The regime's urgent desire for a compromise was reflected in the first speech before the Sejm of Premier Piotr Jaroszewicz, who allowed that even in a socialist state there was room for both "believers and nonbelievers."

Actual negotiations dragged on for months and bounced from crisis to crisis. At one point Ryszard Skarszynski, director of the state's Church Affairs Office, almost aborted talks with a letter to the episcopate demanding that the Church publicly embrace the government and socialism as a precondition to any cooperation. Wyszynski, seventy-one and crusty as ever, replied with a sermon in Saint Anna's church bristling with counter-demands.

Tense as things were, it was obvious that the regime recognized the need for a new start. Although freedom of religion was not expressly one of the primary workers' grievances during the riots, no effective reorganization of the system was conceivable without some compromise with the Church. The log jam began to break in the wake of a forthright announcement by the episcopate, coordinated with Rome, spelling out the Church's concept of its own mandate: "The Church in Poland does not want to form a political opposition, it mobilizes no conflict against the constitutional framework. The episcopate does not question the international alliance structure of the government; it supports no political grouping or party. It does, however, intend to work with officials within its own sphere, and will cooperate, particularly in the moral field, in that which serves the well-being of the nation and the state."

In an obviously prearranged reciprocal move, the Sejm two days later passed a new law confirming Church ownership of property in the new territories, previously considered on loan. The Church was to become a "legal person" with title to the 4,782 churches, 2,000 other buildings, and 2,000 acres of land. Gierek also agreed to drop the long-standing Gomulka demand that the Church maintain "inventory books" by which the government hoped to probe more deeply into the Church's financial status.

It took still another three months and two rounds of haggling to satisfy the Vatican. Skarszynski visibly modified the state's position with a public statement emphasizing that though the Church "must respect the socialist societal structure," this does not mean the Church "must engage its ecclesiastical authority on behalf of the state." Furthermore, Skarszynski conceded the "continuing character of the religious activities of the Church," an unambiguous guarantee of a lasting mission. For its part the regime also conceded certain tax cuts, and created no obstacles to a nationwide celebration of the anniversary of the beatified martyr priest, Maximilian Kolbe.

One must assume, however, that it was not without mixed feelings that the Vatican, three months after West German ratification of the Warsaw treaty, finally proceeded with a reorganization of the Oder-Neisse dioceses. The four apostolic administrators serving provisionally in the area became regular residential bishops with permanent titles, and two other dioceses were carved out, also with regular bishops. Basing its move largely on "pastoral considerations" for the 8.43 million faithful in the territories, the Vatican added that the move had been made possible by the "juridical-international situation."

"On this issue," a spokesman for the episcopate said in greeting the decision, "the Polish Church and Polish government are unanimous." Unquestionably, but this doesn't alter the uncomfortable diplomatic dilemma the Vatican confronted. Recognition of these territories before the West Germans acted was impossible, out of deference to the 9 million German refugees, about a third of whom are Catholic, now living in West Germany. Yet once the West German Bundestag ratified the treaties the Vatican almost had to go along, and fairly soon, for the longer it waited the less political impact it had.

Nevertheless the dioceses' readjustment by no means settles the church-state problem in Poland. Vatican negotiators were not able to settle a whole series of complaints with the Poles. Wyszynski is particularly concerned about the need for new churches—he claims a

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thousand are needed, 40 in Warsaw alone. The seminaries remain under considerable pressure. The Catholic University in Lublin (the only Catholic institution of higher learning in the whole Eastern bloc) is constantly subjected to administrative harassment. At the parish level the Church has shown amazing imagination (the 2,000 priests in the western territories alone somehow managed to baptize 140,000 babies in 1971) but it is laborious business. Presumably negotiations on these issues will follow.

CZECHOSLOVAKIA: *From Huss to Husak.* As far back as Jan Huss in the 15th century, the Czechoslovakian population, nominally Catholic in the Czech lands (Bohemia and Moravia) and deeply so in Slovakia, has bobbled on a sort of precarious religious seesaw. Seldom did the board tilt more radically than after the short-lived Prague spring of 1968.

The Prague spring culminated two wretched decades for the Czechoslovak Church. The two states of the federated nation were quite different in intensity of faith; and, furthermore, effective opposition was impeded by the fragmentation of the Church structure, a heritage of the Habsburg efforts to keep the bishoprics on a short leash from Vienna. The Church suffered enormously. Bishops were not allowed to serve in their dioceses, and no new bishops' appointments were permitted. Although subsidizing the Church, the government meddled constantly in personnel matters. Finally, a regime-sponsored "Peace Priests" movement energetically attempted to split the faithful.

Vatican II gave the Czechoslovak Church its first breath of air. Under its influence Joseph Cardinal Beran was released after years in prison for his opposition to the regime. Frantisek Tomasek, apostolic administrator for Prague, was allowed to travel to Rome for the Council. Afterwards, though still not allowed to serve their dioceses, bishops could at least meet with intermediaries, which lightened the administrative burden.

The floodgates for the Church and nation opened during the Alexander Dubcek era late in 1967. Along with political liberalization came a reopening of seminaries and orders, and relaxation of pressures on priests. In a marvelous awakening, ecclesiastical publications such as *Katolicke Noviny* and *Duchovni Pastyr*, once dull official organs, bubbled with new ideas and theology.

The Soviet invasion of 21 August 1968 abruptly changed all this for the nation and Church; shortly the victories of the spring yielded to the defeats of winter. In April, 1969, Gustav Husak became party chairman, and a concentrated reassessment of past errors began. The principal conclusion, at least in the cultural field, was the need to overcome the ideological setback.

The consolidation campaign, begun shortly after Husak came to power, took months to organize. Perhaps the single most important measure was the dissolution of the Catholic professional-ideological organization "Work of Council Renewal," set up with great fanfare under Bishop Tomasek at the height of the spring, to replace the regime-dominated "Peace Movement" of the Novotny era. By November, 1968, the Council was banned, and early in 1970 "Patriotic Peace Priests" of the Novotny era began to reorganize. Finally, in 1971, "Pacem in Terris" was formed. Despite its title, it is a regime-influenced front organization (it promptly lauded the platform of the 14th Party Congress). Behind the scenes of the organization are figures identified with the Peace Movement.

Another blow to the Church was the dismissal of liberal Erika Kadlecova as head of the department of the State Secretariat for Church Affairs. The Secretariat in turn was then divided into separate sections for Czech, Slovak and federal operations. The regime also tightened its grip on religious instruction programs and slapped tight limits on the size of classes at theological schools. The first year, roughly half of the applicants to the two theological faculties were turned down. Government chicanery also continued—such as the later abrupt expulsion of seven divinity students from the Bratislava theological faculty, on the grounds they or their parents were involved in the events of 1968.

Not surprisingly, the creative intellectual ferment disappeared from church publications only somewhat more slowly than it had blossomed. Early in 1972 a brilliant editor of *Duchovni Pastyr* was replaced by Miroslav Rajmon, a Peace Movement ally.

The religious orders in particular suffer. The Dubcek government had unfortunately not gotten around to fully reversing the old administrative decree of 1950 which had forbidden religious orders. Under Dubcek, the orders were again permitted. Shortly after the Soviet intervention they were again restricted, and early in 1970 superiors of the religious orders were told to stop teaching outside their institutions, and to dismiss all novices. An appeal to President Ludvik Svoboda went unheeded. In 1972 the campaign became even more intense, and many nuns were deported to work camps. In parts of Slovakia, claims one source, "the pressures are reminiscent of the early 1950s."

The most pressing problem for the Czechoslovak clergy is personnel. Priests identified with the spring have been forced into early retirement or transferred. The two theological faculties (Litomeryce and Bratislava) are utterly unable to supply the necessary new blood. Some sources place the average age of the clergy at 60.

Until early this year, the episcopal hierarchy was in sorry disarray. Of thirteen dioceses, only one was served by a regular bishop. In most cases the dioceses were run by vicars capitular or vicars general appointed from among the "Patriotic Priests" movement, under the influence of the State Secretariats in Prague and Bratislava.

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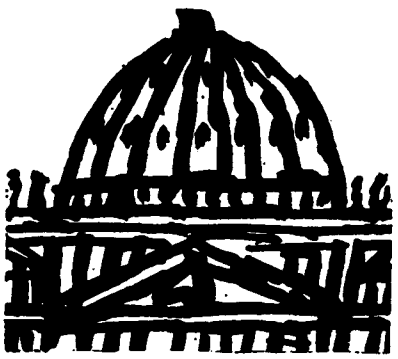
The government's anti-religious campaign reached a high point with new school regulations for 1972/73 with a new campaign against the Church, including pressures on after-school activities of youth, when religious instruction was normally given.

In November, however, negotiations were reopened at Prague's request, and shortly it was clear that the government was at last prepared for serious negotiations. Early this year, agreement was reached on the appointment of four bishops, the first since 1964, though still giving an apostolic presence in only six of the nation's thirteen dioceses. The agreement was hailed by Pope Paul, who noted that in Slovakia there were no more bishops left. Yet, the Vatican was clearly uncertain about the new bishop Josef Vrana, and qualified his appointment. Perhaps quite properly so. For, some time



later, Radio Hvezda described Vrana as "the president of the Central Committee of the Organization of Catholic priests, Pacem in Terris," the job he was supposed to have resigned earlier.

Clearly the Prague-Vatican accord is just the tiniest of beginnings. Much still has to be worked out in the area of training priests and nuns, and religious education.

The nation and its Church are in mourning, but can hold their heads high. The experience of the Czechoslovak spring, however pathetic it has now become, must surely cause some Communist regime leaders to reflect on the latent energy of the Church, however repressed.

HUNGARY: *Waiting for Mindszenty.* In Church affairs Hungary marches to a different drummer. Party Secretary Janos Kadar, as East European expert Paul Lendvai puts it, "may be regarded as the leader of a team which conducts the most sophisticated policy in Eastern Europe."

Hungary, at least nominally, is perhaps 70 percent Catholic, and the regime has been quite ready to admit the Church's considerable influence, particularly in the provinces, where local versions of Don Camillo seem quite active. Nevertheless, rigid controls have hampered effective Church administration at the higher levels.

Understandably, genuine progress in Hungary depended upon a satisfactory resolution of the Cardinal Mindszenty problem. The Cardinal, for fifteen years a prisoner in the third floor of the U.S. Embassy in Budapest, was an insurmountable obstacle to improving Vatican-Hungarian relations. On September 28, 1971 Mindszenty finally left Budapest.

The Cardinal describes the terms of his release, the agreement to avoid active intervention in Hungarian church affairs, as the "biggest burden of my life." In practice he has almost ignored the limitations. Rather than settling down in Rome, as expected, he chose Vienna, just a stone's throw from Budapest. In West Germany he has publicly assailed the Hungarian regime as the "devil's hand," and at the millennium celebrations of Holy King Stephen, Mindszenty said the nation was at the "lowest point in its history." A nervous Austrian government has chided him for violating the terms of his asylum. The hoary old man, physically shrunken but intellectually vividly alert, despite his eighty years, is now tending to his memoirs, the publication of which both Budapest and Rome are awaiting, as one observer put it, "with mixed emotions."

Clearly, depending upon how the Cardinal conducts himself, he is still potentially somewhat of a brake on any rapid improvement of church-state affairs. He still retains his title as "Archbishop of Esztergom" and Primate of Hungary, and although Hungarian press reports add to this the comment "outside of his see," Mindszenty, even at 80, does not have to retire. One solution might be an agreement to appoint a second archbishop. Talks since his departure have, however, been confined to matters such as the relaxation of pressures on religious teachers and the reopening of some religious orders.

The appointment of new apostolic administrators for three dioceses was not evidence of any thoroughgoing settlement. All available evidence suggests that the appointments were a limited compromise, changing nothing. None were residential bishops, so they hardly improve the Church's position. Furthermore, though none were from the "Peace Priest Movement," none enjoyed any particular standing within the Church. Hungary has three archdioceses and eight dioceses; three are residential bishops, five are run by apostolic administrators. So long as the Vatican-Hungarian agreement of 1964, preventing unilateral appointments, continues in force, the Vatican can hardly move.

On the positive side, with the exception of Yugoslavia, Hungary is the only country where the Marxist-Christian dialogue seems to be prospering. The atheistic Marxist monthly *Vilagosag*, and the intellectual Catholic journal *Vigilia*, carry on an active exchange.

YUGOSLAVIA: *Tito Comes to Paul VI.* For a long while some of the most exciting religious coexistence experiments in Eastern Europe were taking place in Yugoslavia. The Yugoslavs seemed to be offering the

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Vatican a chance to experiment in new forms of cooperation, and the Vatican seemed most interested. Since then, however, a great deal of apprehension has developed that this dialogue may be jeopardized by the tense nationalist controversies and the accusations of Croatian "counter-revolutionism" associated with the name of the "Matica Hravatska," a revolutionary organization.

The Catholic Church is distributed unevenly across the nation—90 percent of the 4.5 million Croatians and 1.7 million Slovenes, and probably a like percentage among the 480,000 ethnic Hungarians. But there's also a Serbian Orthodox Church, numbering some seven million, including virtually all the Montenegrins, and an Orthodox Macedonian Church, plus a solid Moslem contingent as well.

Church-state relations in the immediate postwar years were disastrous. Nowhere in Eastern Europe was the confrontation more bestial. The Church was openly anti-Communist, to some extent even fascist-tinged. The high point of this showdown was the conviction of Cardinal Aloisius Stepinac on charges of collaborating with the Germans.

Frictions eased noticeably under the new Archbishop of Zagreb, Cardinal Franjo Seper, who, along with Archbishop Frane Franic of Split, led the way in blunting many of the regime's charges against the Church. Vatican II afforded both sides a chance for extending feelers, and clearly Cardinal Seper found favor with the Holy See. As a direct result of his initiatives, the Vatican in 1966 signed the Belgrade Protocol, spelling out the prerogatives of church and state. In 1968 Seper succeeded Alfredo Ottaviani as head of the Catholic Congregation on Doctrine and Faith, the first East European prelate to hold such an important Vatican post.

By 1970 both sides were ripe for the exchange of diplomatic representatives. Later in that year, Tito himself traveled for an audience with Pope Paul VI.

As the dialogue unfolded, so did the Church's freedom to maneuver. In 1966, for example, there were 150 new vocations, more than in Austria. There are some 46 ecclesiastical secondary and high schools, with close to 5,000 students. Yugoslav priests travel freely abroad for study. At the same time, Catholic journals flourish. Each bishopric has its own official organ, while at the national level the *Glas Koncila (Council Herald)* and bimonthly *Druzina*, have large circulations. There's a considerable domestic production of theological literature, and foreign journals are readily available.

Although under the terms of the protocol the Church must confine its activities to the religious field, avoiding politics, in practice it has assumed an ever-larger role in the society, particularly with its hospitals or old peoples' homes, which the government simply cannot afford to take over by itself.

Without doubt conditions in Yugoslavia will place the Vatican-Yugoslavia agreement under considerable pressure. Regime criticism of the Church is increasing. A message by Archbishop Kuharic, urging an even greater public role for the Church, was not reprinted in the same newspapers which carried the government's criticisms of it. And the Croatian trials, though aimed largely at intellectuals, continually threaten to envelop the churches. Following the arrest of the vice-rector of Zagreb university, I. Cicak, a well-known Catholic, on charges of organizing a nationalist "falange," government papers blistered him as "clericalist," and "clerical-nationalist." Earlier, a top Croatian bureaucrat, Zlatko Frid, had bitterly attacked "manifestations of clericalism" within the Church; however, Frid was careful to restrict his criticism to "certain individuals," an important distinction the regime would do well to keep in mind. For there were indeed individual priests dabbling in the political waters, but they were not condoned by the Church, which has tried to remain aloof.

WRAPPING UP: *So What's to be Done?* A failure of the Yugoslav experiment would be as tragic for the Vatican, which hopes to expand on this as a working model for the future "coexistence" with socialist states, as for the rest of the Churches in Eastern Europe. Hope persists despite the lamentable experience with the Marxist-Christian dialogue. The exchange, dating back decades but renewed when *Pacem in Terris* openly urged a dialogue, existed on a wave of euphoria for several years. In Salzburg in 1965 French Communist Roger Garaudy spoke ecstatically of future cooperation. But already a year later, at the Herenchiemsee meeting, second thoughts were apparent. Many thinkers in socialist nations shared the view of East German Scientific Atheism professor Olof Klohr of Jena University who described this as a "self-destructive contact which might shake the unity of Marxism." Still, the 1967 Paulist Society meeting in Marienbad, with tacit Soviet sanctions and some eighty Eastern bloc representatives, was encouraging.

The Soviet tanks that moved into Prague in 1968 scuttled this experiment. The movement has never recovered. Guenther Nenning, publisher of Vienna's left-Catholic *Neues Forum*, surveying the scene recently, proclaimed the dialogue "dead."

To be sure, there is a great deal of uneasiness in both church and state about just where an East European detente along the Yugoslav model might lead. The accommodation with the Church is by no means heartily endorsed, for example, in the Polish Central Committee where Gierek, judging from his occasional backtracking, has several times bowed to anti-Church pressures. The same holds true for Yugoslavia, where middle-level party members often ask penetrating questions as to whether cooperation with the Church will not eventually blunt the socialist revolution. In Poland Leszek Kolakowski and in Czechoslovakia Milan Machovel were

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penalized for probing too deeply into the question of what Christianity might offer Marxist thinking—Kolakowski ended up in English exile while Machovel, a Prague university professor, is now a street-car conductor.

Within the Churches, too, there is concern whether accommodation will not lead into a "pastoral ghetto." To be sure, much of the Vatican's maneuvering must be seen in terms of striving to keep the hierarchical offices filled, and achieving a certain degree of freedom for the local Churches. But the Catholic Church, no less than the Communist party, faces the danger of a deafening of its trumpet, of a loss of clear-cut Christian goals. Preaching a hollow social doctrine instead of the Gospel can be perilous. "Our realm must continue to be God, final judgment and miracles," emphasized one Czechoslovak seminarian, "but involvement in the world around cannot be made to suffer."

Above all, the Church must insist upon its right to teach the Gospel; the seminaries must continue to produce competent scholars. As German observer Walter Leo pointed out, "The capacity of an average Christian to justify his faith is generally far inferior to that of a Marxist to explain his views . . . when it comes to discussing their own faith, Christians are almost illiterate. That's bad enough in the West; in the East it's fatal."

PERISHABLE PECKINPAH

THE SCREEN

When *Pat Garrett and Billy the Kid* opened in New York, the distribution was almost more interesting than the film itself. Most films have their first run either in Times Square or at a little East-Side Manhattan theater or in their neighborhoods. But this new Sam Peckinpah western premiered simultaneoulsy East Side, West Side, all around the town. It opened at 46th Street and Seventh Avenue, where it could attract the sort of patrons who still get dressed up for dinner and a movie. It was positioned on 59th Street just off Third Avenue, within easy reach of the silk-stocking set who dress down for a movie and dinner. And what was good enough for the upper crust was apparently also thought right for the intellectuals and welfare mothers on the West Side, around 83rd and Broadway.

The message in this scatter-gun booking is that Peckinpah now reaches an audience almost as diverse as it is large. He is the darling of the cultists and the favorite of the fans. He is thought by the industry's money men to have a highbrow/lowbrow appeal, a sort of cinematic double team, that cannot miss. What is more, as the casting of *Pat Garrett and Billy the Kid* reveals, Peckinpah has begun to think of himself this way too. The bit parts are studded with old-timers—Slim Pickens, Chill Wills, Jack Elam, Katy Jurado—to please the movie buffs and the middle-aged. Bill and his sidekick are played by Kris Kristofferson and Bob Dylan, who should attract the East Siders, youngsters and intellectuals. And the rest of the public, all those John Does who belong to no special-interest group, should be pulled into a Time Square theater by the presence of a star, James Coburn, in the lead.

Despite the single-mindedness of both the booking and the casting, however, I don't think Peckinpah has managed to keep in touch with his vast audience. The truth is that he is a very limited director, and the more films he makes the more apparent this will be. His limitations happen to match those shared by some of the most successful American directors of the past, which may be why he has been able to revive their kind of popularity. But the narrowness of his imagination is already forcing him to repeat himself in ways that will eventually, I suspect, bore the lowbrow and embarrass the highbrow.

Apologists from either half of Peckinpah's dual audience will at once object that the similarities in his films are what won him a following in the first place. The general public goes to his films for the same reason that the highbrows and cultists do—because he is a reliable sort. His preoccupations and vision remain the same from film to film. He is an *auteur*, a director whose work is all of a piece. In *The Wild Bunch*, the film that originally attracted so enormous an audience, he did a story of an aging gunfighter whose desire to survive in changing times forces him to hunt down a former companion for the law. In *Pat Garrett and Billy the Kid*, five years later, Peckinpah is still dealing with the same themes in a story so close to *The Wild Bunch* that it's practically a re-make.

But being an *auteur* does not make a director either great or durable. In fact, one fundamental similarity between *The Wild Bunch* and *Pat Garrett and Billy the Kid* is their inadequate character development. Both deal with the conflict between friendship and self-interest, honor and expediency; but neither provides enough of the two men's backgrounds to make the conflict credible. Since we see only the actions of self-interest and expediency, Peckinpah must expect us merely to assume his heroes capable of some other sort of behavior. After the last shoot-out in each film, a very sentimental coda shows the surviving gunfighter displaying remorse over the friend whose death he has just caused. Such scenes might have their place in a John Ford or Anthony Mann western, where the action has been tempered by sentimentality throughout. But they're pure hokum in a film where the director spends most of his energy on the orchestration of blood-spurting murders.

Peckinpah might claim that the psychology of his stories would not be so skimpy if the producers would

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quit tampering with his work. The irony of his career is that his reputation for pleasing the movie public is exceeded only by his reputation for antagonizing movie executives. At least two previous Peckinpah films have been taken out of his hands and recut by the studio before release. (One was *The Wild Bunch.*) Because the credits for *Pat Garrett and Billy the Kid* list a suspiciously large number of editors, six in all, it's obvious something comparable has happened to it. Peckinpah claims a prologue and epilogue he shot have been deleted, and he is now suing MGM over its handling of the film.

But the more films Peckinpah makes, the less palatable such excuses become. He's been around. He should know the rules by now. If he doesn't want the emotive sequences of his films cut in favor of the action sequences, he should quit giving the studios enough footage so they have those kinds of options. *Pat Garrett and Billy the Kid* is almost two hours as it is. The film as Peckinpah wanted it must have been well over two hours then. Did he seriously expect that MGM would release the film at that length? By giving the studio a longer picture than it would conceivably have released, and then bellyaching about the way that the studio's hacks cut the film down, Peckinpah is only copping out on his own responsibilities for his work. He should have cut the film down to release-length himself. Or better still, he shouldn't have shot so much blood-and-guts footage in the first place.

Once you take away the human relationships from a Peckinpah film—or rather, once you notice they were never really there—what is left? The violence. That alone is the true subject of these films, and the only experience Peckinpah renders with the distinctive style of an *auteur.* I think Peckinpah does understand something unique about violence, something about the openness and awkwardness with which it can occur. But the moment at which violence does occur is still a terribly limited and isolated one.

If Peckinpah cannot instill the quiet moments of his films with any humane sentiment, he certainly cannot do so amidst the violence. The drama of violence, though highly visual, is very thin. It can only be elaborated and repeated, not expanded and developed. When he lets Billy strut through town easy as you please after breaking jail and murdering two deputies, Peckinpah is envisioning such turmoil in a way both novel and persuasive. But the scene shows us nothing we didn't see just as fully in *The Getaway*, in a comparable situation, when Steve McQueen purchases a shotgun so he can step outside the store and destroy a police car with it. The only difference is that this time we are not quite so dazzled by the violence as we were the time before; and we begin to be able to see that, outside of the violence, his films never have been all that much to look at.

COLIN L. WESTERBECK, JR.

BOOKS

Christian churches in American history: a fumbled witness

In His Image, But . . .: Racism in Southern Religion, 1780-1910

H. SHELTON SMITH

Duke University, $8.50

Slavery and the Annexation of Texas

FREDERICK MERK

Knopf, $8.95

ROBERT V. REMINI

There is a terrible lesson to be learned in reading *In His Image, But . . .*, a lesson that history continually documents yet one we instinctively reject because of its fearful implications. The lesson is simply that whenever great moral questions arise in the United States the clergy as a class will usually fail to provide moral leadership and can be expected to align itself with popular opinion, no matter how contradictory that opinion is to accepted moral absolutes.

The Vietnam war might be cited as a case in point, yet a more readily provable example is the history of race relations in this country. H. Shelton Smith, a professor emeritus of American religious thought at Duke University, has researched the Southern aspect of this question in organized religion and reached a number of sad and depressing conclusions. He begins by citing the Bible's contention that "God created man in His own image" and the fact that religious leaders in this country, both North and South, have always theoretically accepted the logical consequence of this doctrine, namely that all men are equal in the sight of God and therefore owe each other "respect and good will." Whatever the force of this doctrine or the degree to which it was paid lip service by Christian leaders, the church in the South did in fact take the lead in affirming the inferiority of the black race—usually with proofs from the Bible—and therefore the right to treat slaves as chattel property. Furthermore, the clergy extensively supported violent resistance to abolition in order to maintain black subservience. When the

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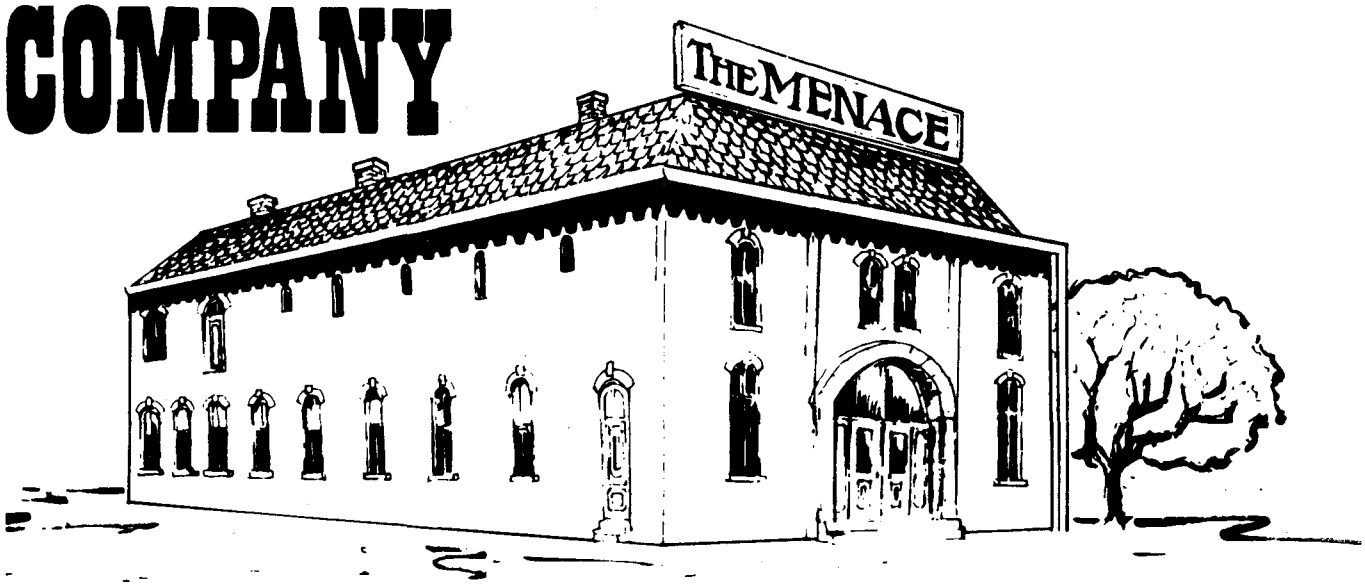

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Civil War ended the church was the *first* major Southern institution to establish segregation; and it was the clergy, not politicians or businessmen, who quickly assumed leadership in justifying every aspect of white supremacy and the necessity of keeping the races separated. Even more incredible, the Southern clergy denounced every attempt to lift the freedom to political and civil equality. For the most part the author is discussing the Protestant clergy; but the evidence indicts Catholic clergy as well, although the pattern of racial bigotry spread more slowly in Catholicism than it did in Protestantism.

After an introductory chapter, which hastily sketches the attitudes of the clergy toward blacks and slavery during the colonial period, the author launches a concentrated study of race relations in Southern religion in the nineteenth century. In a thoroughly researched, extensively documented, but blandly written narrative, Smith convincingly demonstrates that all Southern churches, with the exception of the Quakers, became entangled with slavery both in its practice and defense. The few clergymen who protested were driven from the region. After emancipation the Southern clergy quickly established a racial creed as "a bulwark of white supremacy." This creed in its most rigid form insisted that the races are unequal and would remain unequal until the end of history; that the black man is the inferior of the white; and that any intermingling of the races is injurious to both races and has its origin in sin. But whether churchmen advanced a hard line or a moderate racial orthodoxy they all held to the basic creed of black inferiority.

By no means was the problem uniquely southern. Slavery may have been the "peculiar institution" of the South, but racism prevailed throughout the United States. Not only was the antislavery movement in the North polluted by racism but after the Civil War the new racial orthodoxy advanced by clergymen was considerably aided by "extra-Southern forces." These forces included: the growing belief among many influential Northerners that the enfranchisement of the black had been a mistake; a developing pride in Anglo-Saxonism among Americans generally; and a series of Supreme Court decisions restricting the application of the 14th and 15th amendments to the Constitution which would elevate the black man to political and civil equality.

The failure of the Christian churches to provide moral leadership in the nineteenth century is a sad commentary on organized religion in this country. Unfortunately that failure did not end in the twentieth century. It still goes on.

The problem of race and slavery is also central to Frederick Merk's analysis of the events leading to the annexation of Texas during the administration of President John Tyler. The author, a professor emeritus of American history at Harvard University, demurs from the older interpretation of annexation which emphasized alarm within the country over the possibility of British encirclement, a threat that endangered the safety of the Union, since the British obviously intended to abolitionize Texas—a tactic which, if successful, would necessarily imperil slavery throughout the South. Merk sees the controversy over annexation more as a political than a diplomatic problem. He is particularly concerned with the propaganda spread by both pro- and anti-annexationists; and this aspect of his study is the unique contribution to our understanding of the battle in Congress over the treaty and the eventual success of the Tyler Administration in bringing Texas into the Union.

The author is particularly struck by the propaganda value of the "safety valve" argument of Senator Robert J. Walker of Mississippi. This thesis argued that annexation would draw slaves into Texas from the worn-out lands of the South. Eventually Texas, too, would become worn-out and planters would be forced to emancipate their slaves who would then, obligingly, leave the United States for Mexico. Thus, in time, annexation would solve the race and slavery questions. Merk also emphasizes the importance of the propaganda spread by the State Department that census statistics demonstrated that freedom necessarily led emancipated blacks into crime, vice and insanity. The success of the propaganda in winning Texas' annexation, argues Merk, poisoned relations between the North and South and led inexorably to secession and war almost two decades later.

More than a third of the book contains reprints of documents illustrative of the intersectional propaganda warfare. The author justifies this procedure because he feels he must present

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REVIEWERS

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evidence in a volume "that challenges accepted explanations of the success of the annexation cause." But the author has not so much challenged accepted explanations—the British encirclement theory is too well documented to be disputed—as he has added an important dimension to the story of the coming of the Civil War.

Eyewitness to History: Memoirs and Reflections of a Foreign Correspondent for Half a Century

ISAAC DON LEVINE

Hawthorn Books, $10

QUINCY HOWE

Born in 1891 in the thousand-year-old town of Mozyr, on the banks of the Dnieper River 130 miles northwest of Kiev, Isaac Don Levine has deep roots in the heart of Russia and strong ties with one of its oldest Jewish communities. The house of his father, a book-binder by trade and a Zionist by conviction, had windows that opened wide on the Western world. By 1911 the promises of American life—its freedom, its democracy, its opportunities—drew the questing young man from Mozyr to Boston and its English High School—from which he again migrated westward, twenty months later, to Kansas City's Westport High. Here, in June, 1914, the *Kansas City Star* began publishing his "Letters of an Immigrant" which later appeared in book form and led to a job on the *Star*. A year later, the young man, flouting the advice of Horace Greeley, went east to New York where, in November, 1916, the *New York Times Magazine* published his article, "Russia Faces the Most Profound Crisis of the War."

If his impressionable first twenty years spent in his father's little house on the Dnieper undergirded Isaac Don Levine's subsequent journalistic career, it was his first five years in pre-World-War-One America that sealed his lifelong commitment to the ideals he had brought with him as a young Russian-Jewish immigrant. It was a commitment that cut two ways. Only an authentic Russian can convey, as Mr. Levine does, the full horror of Soviet Communism. At the same time, only one with his background can also convey the indomitable spirit of the Pasternaks, Solzhenitsyns, and Sakharaovs which will outlive Stalin's terror, Khrushchev's confusion, and Brezhnev's banality. In like manner, those last five years before the United States entered the First World War still preserved some of those early American ideals which Abraham Lincoln had embodied and for which the Grand Army of the Republic had fought. To more than one young immigrant—even as late as 1912—those ideals still embodied a living reality.

These observations seem essential—if for no other reason than because a review three times as long as this one could neither summarize nor distill the essence of a book which relates so many incidents, depicts so many contemporaries, and evokes so many aspects of our recent past. *Eyewitness to History* is neither narrative history nor conventional autobiography. While covering the Russian Revolution for the *Chicago Daily News* syndicate in 1918 and 1919—and scooping all the competition in the process—Mr. Levine observed Trotzky in action and met him face to face. He brought back documents and copies of documents covering the pre-war correspondence between the Tsar and the Kaiser as well as the Tsarina's diary during her last days at Ekaterinburg. He never underrated Lenin and his Bolsheviks but could no more accept their revolution and its consequences than he could repudiate the America of Washington and Lincoln.

In his most engrossing chapter, "The Spies That Made a President," Mr. Levine reviews and re-appraises his association with General Walter Krivitzky (born Samuel Ginsberg) who, in 1937, defected from his post as Soviet Military Intelligence chief in Western Europe. A year later, in the United States, Krivitzky found in Levine the ideal collaborator on his memoirs which began appearing in the *Saturday Evening Post* early in 1939. Herbert Solow, a journalist of Trotzkyite sympathies, later a senior editor of *Fortune*, at once put Levine in contact with Whittaker Chambers, then a *Time* editor who had recently broken with the Communist Party which he had served as one of its Washington operatives for some years. But the manuscript on Stalinist espionage in the State Department which Chambers had hoped Levine might be able to place in the *Saturday Evening Post* looked to Levine like "more of

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a literary effort than a documentary exposé." Although unwilling to handle Chambers as he had handled Krivitzky, Levine did bring the two men together and they developed a mutual respect —Chambers always deferring to Krivitzky's wider experience.

The announcement of the Nazi-Soviet Pact in August, 1939 enhanced Krivitzky's prestige in official American circles and enhanced Chambers' prestige in the eyes of Levine who, in consequence, rushed Chambers to Washington and Assistant Secretary of State Adolf A. Berle, Jr. before whom Chambers laid documentary evidence naming six State Department officials, including Harry Dexter White and the Hiss brothers, as having knowingly furnished confidential data to Soviet undercover agents. But when Berle showed this material to Roosevelt, the President told him, in effect, to "go jump in the lake." In early February, 1941, one of Stalin's killers shot Krivitzky in his Washington hotel room under circumstances that the authorities chose to describe as suicide.

On August 16, 1948, Alger Hiss denied under oath Whittaker Chambers' charge that he had been a Communist. Two months later, Whittaker Chambers denied under oath that he had ever made such a charge against Alger Hiss. Both men had perjured themselves. But Chambers perjured himself in the mistaken hope that he could thereby spare himself the ordeal of bringing charges against a list of suspected Communists—including Alger Hiss. Hiss, on the other hand, had perjured himself in the mistaken hope of discrediting Chambers before Chambers could discredit him. And, according to Levine, Hiss came within an eyelash of doing just that.

Having thrown new light on the Hiss-Chambers affair, Levine found himself in late January, 1964 in position to throw new light on President Kennedy's assassin, Lee Harvey Oswald. Mutual friends put him in touch with Oswald's Russian-born widow, Marina, with whom his command of the Russian language and his familiarity with recent Russian history helped him to establish an instant rapport. To condense a complex story. Marina's account of her husband's doings during their few years of marriage, especially during the last few weeks of his life, convinced Levine that Oswald had little in common with the revolutionary terrorists of Stalin's generation and his own. Rather, Oswald had become the forerunner of a new breed of terrorists who would draw their inspiration from the teachings of Mao Tse-tung and Ho Chi Minh and their example from Che Guevara, the Black September terrorists and other representatives of the emerging Third World. Oswald was no more a Soviet agent than he was a crazed teen-ager.

If these brief synopses fail to convey the flavor of *Eyewitness to History*, let it also be said that Isaac Don Levine is not so much a man for all seasons as he is a man born at a time and in a world that permitted him to make the most of opportunities that gave his talents full scope.

Dividing 'Justice'

GIVEN THE REALITY of prosecutorial discretion, the argument for dividing the function of the Department of Justice into two becomes compelling. There is an obvious necessity for the President to have an office of legal advice—perhaps at the Cabinet level—and, insofar as that office can furnish advice concerning proposed legislation, it is manifestly a position which should be recognized and represented. But no President needs this own law-enforcement machinery, for the temptation to pervert such machinery to partisan political ends is, of course, often overwhelming. The same arguments favoring separation of the intelligence operations of the F.B.I. and the C.I.A. from their operations are applicable here. No one agency should be responsible for both functions, for each tends to distort the objectives of the other.

Thus, if the Department of Justice were split into two agencies, one representing the President as legal policymaker, the other relatively independent of the President as law-enforcer, some necessary "breathing space" should be afforded to a system often besmirched by politics. . . .

What is necessary is that the Attorney-General's office be insulated from partisan politics as much as possible, that the crushing yet educative power of the law not be used to exonerate the guilty or to intimidate the innocent. . . .

—from "The Case for Dividing 'Justice' "
by Isidore Silver
Commonweal, July 28, 1972

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IN BRIEF

A BOOK OF JESUS *by William Goyen, Doubleday, $4.95.* Always drawn to the mysterious combinations of spirit and flesh in the world, William Goyen's work has consistently hovered in some fashion around the story of Jesus. Among his novels, all written with amazing grace, *The House of Breath* involves the spiritual redemption of a Texas family by the son, and *The Fair Sister* is a compact, moving and funny tale about a nightclub singer who becomes the leader of her own church in Brooklyn. In the present book, he sets down the Jesus story directly, "primarily for those who do not know it or who know it dimly." It is a short account of the events of the gospel, written by someone who quite obviously cannot get over them. There is no stab at "biography," no local color or psychological reconstructions; nor is the author interested in nuances of theology. It is simply a tale, a song as much as a story, moved along by the drama's momentum yet full of arresting images and descriptions: ". . . so many of those who had been healed by him never left him afterward but followed him wherever he went, as disciples; so that there was a band of deaf people who could now hear, blind people who could now see, and lamed who were leaping along the roads, behind him. . . ."

This is a very fresh book of Jesus, and it may have the bonus effect of directing new readers to Mr. Goyen's other work. MICHAEL MURRAY

CORRESPONDENCE

(Continued from page 371)

The professor who was quoted in the same paragraph further misleads the reader by references to an "outdated course in the Gospels" and "the unpopular course on theological morality." Since no specific courses were mentioned, it is difficult to rebut such generalities; however, consultation of student course evaluations, which are publicly available, shows that courses in the Department of Religion and Religious Education are popular with all students (engineers included). No criticism by the engineering Faculty was directed at courses offered by the Department of Religion and Religious Education; thus I submit that the faculty is also satisfied with these courses.

It is fitting that *Commonweal* follow the changes in engineering curriculum at CUA; however, I urge you to rely on the record and not on pernicious rumor or hearsay.

RUSSELL A. SMITH
Assistant Dean
School of Engineering and Architecture

N.A.L. Fallout

Bloomsburg, Pa.

To the Editors: In "Correspondence—NAL and Abortion" [18 May], R. Crist wrote: "As a former officer . . . of National Association of Laity, I note . . . NAL's complaining . . . [April 13]," and "NAL's abortion endorsement . . . discredited . . . neither organizational consensus nor consultation . . . ; . . . [NCR, March 23] . . . one of Mr. Skehan's fellow NAL officers . . . admitted the organization has publicly misrepresented. . . ."

Please inform your readers that Mrs. Crist is not "a former officer" of NAL; that *NCR*'s letter writer of 23 March (apparently Mr. Robert Aldridge) is not "one of Mr. Skehan's fellow NAL officers"; that Mr. Jack Yorke, NAL President, reported in *NCR* (6 and 13 Feb.) that the officers and Human Life Committee were consulted before issuance of NAL's release praising the U.S. Supreme Court; that the Executive Board of NAL confirmed that release by a 4/1 majority at its meeting 31 March in Cleveland. (Please refer my letter to *NCR* 11 May.)

My letter to *Commonweal* [13 April] was signed "Dr. Joseph T. Skehan, Economist" and presented my own views. Why's Mrs. Crist label them "NAL's complaining"; no such "consensus" or "consultation" was claimed. And my esteem for *Commonweal* was clearly expressed; literary and historical concerns motivated my extensive critique of your "reporting *public law* decisions on abortion."

So much for who and what's, in Mrs. Crist's words, "discredited," "alleged," "misrepresented," in "bankruptcy," under "indictment" and described by like legalisms. (DR.) JOSEPH T. SKEHAN
Economist
(Secretary, National Association of Laity)

REPLY: No doubt about it now, its abortion endorsement is NAL's Watergate, with the organization's secretary apparently choosing to joust with by-law semantics in his new eagerness to maintain I was not an NAL officer. May I merely remark:

1) that my status as an officer of NAL (beginning with my election in 1971) has been designated as such by the organization in its official records, correspondence, etc. and has been repeatedly attested to as a matter of record by Mr. Skehan himself, in minutes written by him and accepted by the entire organization.

2) that Mr. Skehan's sudden reversal, coinciding with his attack upon me and my NAL successor as delegate-at-large (Mr. Aldridge), is probably due to our having discredited the NAL abortion endorsement Mr. Skehan supports.

3) that there are no *National Catholic Reporter* issues (this year) dated Feb. 6 or 13; that Mr. Yorke was never referred to in the original NCR endorsement story (Feb. 9); that Mr. Yorke was never reported in NCR as stating that the NAL officers and human life committee were consulted prior to the endorsement release.

4) that, in my view, the continued and admitted lack of organizational consensus and full consultation renders the Cleveland board action morally reprehensible and a betrayal of grassroots NAL. ROSEMARY CRIST

With this exchange we must consider this matter closed in our pages. For more on the NAL, see article on page 373. —THE EDITORS

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Did I Say That?

a theologian confronts the hard questions

by John L. McKenzie

He did indeed say the acerbic, insightful, original, candid and frequently seemingly outrageous things in this long-awaited book. For this is one of America's top theologians come down from the ivory tower of scholarship to deal with the moral and ecclesiastical problems of everyday life in the crisp, colorful, and jargon-free style that have made John L. McKenzie one of the most widely read and highly regarded Catholic writers of our day.

One of the few things Father McKenzie is not famous for is pulling his punches. When he talks about the problems of evil in modern life his indictments shy away from no sacred cows. His outspoken criticism of authority in the church, of ecclesiastical repression of personal and academic freedom have not necessarily made him friends in high places but they have influenced many. His tremendous depth of scriptural knowledge illuminates all his writing without ever slipping over to the pedantic.

Best of all, his passionate concern for people and for the authentic message of the Gospels, is converted and focused onto the major moral problems which openly or covertly subvert the quality of contemporary Christian life—as it is lived very much in this world.

THE THOMAS MORE ASSOCIATION
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